

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 L-03 PER-01 DODE-00 OPR-02 TRSE-00
ABF-01 FS-01 PM-05 SSO-00 /026 W
-----030614 261621Z /45

O 261510Z JAN 78

FM USMISSION USBERLIN

TO SECSTATE WASHDC IMMEDIATE 6123

INFO AMEMBASSY BONN IMMEDIATE

C O N F I D E N T I A L USBERLIN 0214

FOR ASSISTANT SECRETARY VEST

E.O. 11652: GDS

TAGS: AFSP, AINF, GW, WB, AKB

SUBJECT: STATUS OF US CITIZENS AND RESIDENT ALIENS EMPLOYED IN
LOCAL NATIONAL POSITIONS ADMINISTERED BY US FORCES IN
BERLIN: ARE THEY US GOVERNMENT EMPLOYEES?

1. THE MISSION HAS JUST SENT USBERLIN 0207 ON THE SUBJECT
MATTER. THAT MESSAGE WAS COORDINATED WITH THE US ARMY IN BERLIN
AND THE EMBASSY IN BONN. WHILE LENGTHY, IN MANY WAYS
IT ONLY OUTLINES THE PROBLEMS WHICH WE BELIEVE WOULD
RESULT FROM A POSSIBLE DECISION THAT US CITIZENS AND RESIDENT
ALIENS EMPLOYED IN LOCAL NATIONAL POSITIONS ADMINISTERED BY EITHER
THE MISSION, ARMY OR AIR FORCE IN BERLIN ARE US GOVERNMENT
EMPLOYEES.

2. THE ADMINISTRATIVE AND LABOR RELATIONS PROBLEMS WHICH
SUCH A DECISION IS LIKELY TO CAUSE US IN BERLIN WOULD BE
SIGNIFICANT. MORE IMPORTANT, IN MY OPINION, IS THE
FRICTION IN US-FRG RELATIONS WHICH IT WOULD BRING
ABOUT. ANY WAY WE LOOK AT THE MATTER, SUCH A DECISION
WOULD RESULT IN A SIGNIFICANT INCREASE IN THE OCCUPATION
COST BUDGET. IT WOULD ALSO REQUIRE THE FRG TO MAKE
INCOME TAX WITHHOLDINGS DESTINED FOR THE US TREASURY
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FROM SALARIES PAID BY THE FRG IN SUPPORT OF THE OCCUPATION.

3. I SUSPECT THE FRG WOULD REGARD THAT REQUIREMENT AS
UNREASONABLE, AND WOULD CONTEST THE PROPRIETY AND LEGAL
BASIS FOR THE INCREASED COSTS TO THE FRG THAT THESE
AND OTHER CONSEQUENCES OF THE DECISION WOULD ENTAIL.

4. STATE, DOD AND TREASURY HAVE BEEN DISCUSSING THIS AT THE WORKING LEVEL, AND MY IMPRESSION IS THAT THE PREVALENT VIEW AT THIS TIME IS THAT THE PERSONNEL IN QUESTION ARE, UNDER US TAX LAW, USG EMPLOYEES. USBER 0207, WHILE NOT PURPORTING TO INTERPRET US TAX LAW, OFFERS ARGUMENTS WHY THESE PERSONNEL SHOULD NOT BE CONSIDERED USG EMPLOYEES, AND IT TOUCHES ON THE LIKELY ADVERSE CONSEQUENCES OF SUCH A DECISION. IT ALSO SUGGESTS CERTAIN DAMAGE-LIMITING CONSULTATIVE STEPS WE BELIEVE WILL BE REQUIRED IF THE DECISION IS MADE. THOSE CONSULTATIVE MEASURES WILL HAVE TO BE TAKEN PRIOR TO IMPLEMENTATION OF THE DECISION. THE NEXT INTER-AGENCY MEETING ON THIS SUBJECT WILL TAKE PLACE IN WASHINGTON ON 31 JANUARY. OUR MISSION LEGAL ADVISER WILL ATTEND. I RECOMMEND THAT THE DEPARTMENT EXAMINE THIS MATTER AT A SUFFICIENTLY HIGH LEVEL TO ENSURE THAT STATE'S VIEWS ARE THOROUGHLY CONSIDERED BEFORE A FINAL DECISION IS REACHED. GEORGE

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 26 jan 1978
Decaption Date: 20 Mar 2014
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978USBERL00214
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780039-0115
Format: TEL
From: USBERLIN
Handling Restrictions:
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780117/aaaaaocb.tel
Line Count: 80
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 68bb70df-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: ONLY
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: ONLY
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 25 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3705031
Secure: OPEN
Status: NATIVE
Subject: STATUS OF US CITIZENS AND RESIDENT ALIENS EMPLOYED IN LOCAL NATIONAL POSITIONS ADMINISTERED BY US FORCES IN BERLIN: ARE THEY US GOVERNMENT EMPLOYEES?
TAGS: AFSP, AINF, GE, WB, AKB
To: STATE
Type: TE
vdkgvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/68bb70df-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014